



# FACT SHEET

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## **The Dairy Import Licensing Program**

August 2007

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Import licensing is one of the tools the U.S. Department of Agriculture (USDA) uses to administer the tariff-rate quota (TRQ) system for U.S. imports of dairy products. TRQs replaced Section 22 import quotas for dairy products on Jan. 1, 1995, as a result of the Uruguay Round Agreement.

Under these TRQs, a low tariff rate, called the low-tier rate, applies to imports up to a specified quantity. A higher tariff rate, called the high-tier rate, applies to any imports in excess of that amount. High-tier tariff rates were reduced by 15 percent over the 6 years since the Uruguay Round Agreement was implemented in 1995, while quantities subject to low-tier rates were increased gradually over that same period. TRQ rates and quantities vary by product.

For dairy products subject to TRQs, an import license from USDA's Foreign Agricultural Service (FAS) is generally required to bring in items at the low-tier tariff rate. No license is required to import products at the high-tier rate; to import dairy products for an agency of the U.S. Government; or to bring in products for personal use, as long as net weight does not exceed 5 kilograms (11 pounds) in any one shipment.

FAS issues licenses in late December each year for the following calendar year (January 1-December 31).

### **What products are covered?**

The licensing system covers nearly all dairy products from cow's milk, except for soft-ripened cheeses such as Brie. It also covers blue cheese made from sheep's or goat's milk.

### **Is a license needed to import a small amount of dairy products for a trade show, research, or other special use?**

If you do not have a license and want to pay the low-tier duty, you must ask FAS to send an "ex-quota permit" to the U.S. Customs Service at the port of entry. FAS will consider ex-quota permits for imports of samples that will not enter U.S. commerce but are to be used at a trade

fair, by a foreign embassy, or for taking orders, research, or testing of equipment. You do not need a license to import a product if you pay the high-tier duty rate.

### **What products may be imported without a license?**

You do not need a license to import soft-ripened cow's-milk cheeses, such as Brie, or products from 100-percent sheep's or goat's milk (except for blue cheese made from or containing sheep's or goat's milk).

Certain dairy products may also be imported without a license under a "first-come, first-served" system. This means these products may be brought in at the low-tier duty rate until a specified TRQ is filled. Once the TRQ is filled, importers have to pay the high-tier duty. The items covered under the first-come, first-served system include:

- dairy products imported under a Free Trade Agreement
- cheddar cheese from Canada (made from unpasteurized milk and aged 9 months or more),
- fluid milk or cream (fresh or sour),
- milk or cream (condensed or evaporated and in airtight containers), and
- dried buttermilk or whey

You can find a complete list of first-come, first-served dairy products and the corresponding TRQs in the FAS Dairy Monthly Imports Circular. Visit the FAS website to view the monthly circulars.

### **What import rights and limitations are conveyed by a license?**

All licenses have specific limitations. A typical license will identify the product, the country the product can be imported from, and the maximum amount that can be imported under that license.

An "any country" license allows imports of a certain quantity of a particular product from any country in the world, instead of only one country.

An "other country" license allows an importer to import a certain quantity of a particular product from any country other than a country that already has a specific TRQ. For example, the following suppliers have specific country TRQ allocations for American-type cheese: Australia, New Zealand, the European Union, and other countries. An importer with an "other country" license for 4,691 kilograms of American-type cheese could import up to that amount from Armenia or another country which is not one of the three countries or regions with a specific TRQ allocation.

### **What is the fee for a license?**

The fee is currently \$150 per license. The fee is based on the FAS estimated expenses to administer the licensing system. FAS publishes the fee for the upcoming year in the Federal Register, usually around August.

### **What is the difference between historical and non-historical licenses?**

Historical licenses are renewable. A person with a historical license in one year may ask for a license for the same product from the same country for the next year. A new license will be issued as long as that person has met the requirements of the regulation. Non-historical licenses cannot be renewed. A person may reapply for an identical non-historical license for the next year, but the application may or may not be granted because these licenses are issued through a lottery.

### **What are designated licenses?**

These cheese import licenses are issued to importers who have met the regulations qualification standards and have been designated by the government of the exporting country to receive a license. Not all countries participate in the designation process. (See appendix 3 of the regulation for a list of participating countries and cheese types.)

### **What are the qualification requirements for a dairy import license?**

First, you must have a place of business in the United States and an agent for service of process (a representative available during business hours should USDA need to serve legal papers on the company). There are also different qualification standards listed in section 6.23 of the dairy import licensing regulation for importers, exporters, and manufacturers. Note that exporters may apply for licenses to import non-cheese dairy products, such as butter, but not for licenses to import cheese or cheese products.

### **How does an importer qualify for a license to import cheese or cheese products?**

You must have been the owner and importer of record of either of the following: at least 19,000 kilograms of cheese or cheese products in eight or more shipments, with each of the eight shipments weighing at least 450 kilograms (net), and with at least two of the eight shipments imported during each of any three quarters of the eligibility period (September 1-August 31); or at least 57,000 kilograms of cheese or cheese products in three or more shipments during the eligibility period, with each of the three shipments weighing at least 2,000 kilograms (net). For example, for a 2007 license, FAS will review an applicant's imports from Sept. 1, 2005, through Aug. 31, 2006.

Qualifying cheese or cheese product imports include:

- imports under licenses,
- imported goat's and sheep's milk cheese,
- imports of cheese not covered by the licensing system (such as Brie), including imports under the first-come, first-served system, and
- imports at the high-tier duty rate.

There are other qualification requirements for currently licensed people who request licenses for the next year; see section 6.23 of USDA ' s dairy import licensing regulation. "Cheese" and cheese products" are defined in section 6.21 of the regulation.

**What if someone else was the owner and importer of record for the qualifying shipments?**

You cannot use imports to qualify for a license unless you were the owner and importer of record at the time the product entered the United States.

**How does an importer qualify for a license to import non-cheese dairy products?**

You must import dairy products (defined in section 6.21 of the regulation) in the same minimum quantities, number of shipments, and minimum shipment weights as specified for cheese or cheese products.

Qualifying dairy imports include:

- imports of cheese or other dairy products under license,
- imported goat ' s and sheep ' s milk cheese,
- imports of dairy products not covered by the licensing system (such as ice cream), including imports under the first-come, first-served system, and
- imports at the high-tier duty rate.

Imports of chocolate crumb cannot be used to qualify for a non-cheese import license.

**How does a cheese manufacturer or processor qualify for a license to import cheese or cheese products?**

You must be the owner or operator of a plant located in the United States and listed under Section II (or Section I as a cheese processor) in the most recent edition of USDA ' s Dairy Plants Surveyed and Approved for USDA Grading Service.

In addition, you must have manufactured, processed, or packaged at least 450,000 kilograms of cheese or cheese products in that plant during the eligibility period (September 1-August 31).

The publication, Dairy Plants Surveyed and Approved for USDA Grading Service, is available from:

U.S. Department of Agriculture  
Agricultural Marketing Service  
Dairy Grading Branch

Web: [www.ams.usda.gov/dairy/grade.htm](http://www.ams.usda.gov/dairy/grade.htm)

**How does a dairy products manufacturer or processor qualify for a license to import non-cheese dairy products?**

You must be the owner or operator of a plant located in the United States and listed in any of the sections of the most recent edition of USDA's Dairy Plants Surveyed and Approved for USDA Grading Service. In addition, you must have manufactured, processed, or packaged at least 450,000 kilograms of dairy products in that plant during the eligibility period (September 1-August 31).

A manufacturer or processor with an import license must use at least 75 percent of its licensed imports in its own plant. See section 6.27(b) of the regulation.

**How does a dairy products exporter qualify for a license to import non-cheese dairy products?**

You must have exported 19,000 kilograms of dairy products in eight or more shipments, with each of the eight shipments weighing at least 450 kilograms (net), and with at least two of the eight shipments exported during each of any three quarters of the eligibility period (September 1-August 31); or at least 57,000 kilograms of dairy products in three or more shipments during the eligibility period, with each of the three shipments weighing at least 2,000 kilograms (net).

**If a company with dairy import licenses is sold, will FAS transfer the licenses to the new owner?**

Licenses can be transferred if the sale meets certain conditions, which are established in section 6.28 of the regulation. If you buy a company with historical licenses, you will be able to apply for that company's licenses for the next year, assuming you have met USDA's regulatory requirements for the sale, as well as the eligibility criteria. If you buy a company with designated licenses, you will also need to be designated by the government of the exporting country to receive those licenses for the next year.

**What documents should accompany an application for an import license?**

If you are an importer, you must provide copies of Customs Form 7501 showing that you are the importer of record of the products. If you are an exporter, you must provide copies of Census Form 7525 (or a copy of your electronic submission), as well as copies of the related commercial invoices and bills of sale. Alternatively, application may be made through the internet from the program (DAIRIES) website at:

<http://www.fas.usda.gov/itp/imports/license/usdairylicenseapps.asp>

If you are a manufacturer or processor, you are not required to provide additional documents with your application. However, you may be audited by USDA to verify your compliance with the requirement to use 75 percent of your imports in your own plant and to process at least 450,000 kilograms of cheese or other dairy products (as appropriate) in your plant.

**How can an applicant find out a product's tariff classification?**

You need to know the Harmonized Tariff Schedule classification of your product so you can apply for an import license matching your needs and pay the appropriate duty. If you are not sure how your product is classified under the U.S. tariff system, you must contact the U.S. Customs and Border Protection and obtain a classification ruling on your product. FAS does not have the authority to classify products for U.S. Customs purposes and cannot provide advice to the public on classification matters.

You can contact your local U.S. Customs and Border Protection office (see Customs Service or Department of Homeland Security, Customs Service, in the U.S. Government listings in your telephone directory) or:

U.S. Customs and Border Protection  
National Commodity Specialists Division  
1 Penn Plaza 10th Floor  
New York, NY 10119  
Tel: (646) 733-3030

**Is an import license the same as a health certificate?**

An import license is not a health or sanitary certificate, which may also be required to import dairy products. The U.S. Food and Drug Administration (FDA) has information on health and sanitary requirements for imported dairy products.

You can contact FDA at the address listed below.

**Who can provide information about health and labeling standards for imported dairy products?**

Contact the FDA at:

Food and Drug Administration  
Office of Plant and Dairy Foods and Beverages  
HFS-300  
5100 Paint Branch Parkway  
College Park, MD 20740-3835  
Tel: (301) 436-1700  
Fax: (301) 436-2632

**Where can importers obtain information on livestock disease and quarantines in foreign countries?**

Contact USDA's Animal and Plant Health Inspection Service (APHIS) at:

U.S. Department of Agriculture  
Animal and Plant Health Inspection Service

Veterinary Services, NCIE  
Animal Products Program  
4700 River Road, Unit 40  
Riverdale, MD 20737-1231  
Tel: (301) 734-3277  
Fax: (301) 734-8226

### **What are the import license application deadlines?**

You should request an application or register in August if you want to apply. Completed applications must be postmarked or electronically submitted no earlier than September 1 and no later than October 15 to be accepted. There is no application fee.

To request a license application or registration information, a copy of USDA ' s dairy import licensing regulation, a list of persons and firms with dairy import licenses, or other information on USDA ' s licensing system, contact:

U.S. Department of Agriculture  
Foreign Agricultural Service  
Attn: Bettyann Gonzales  
Ag Stop 1021  
1400 Independence Avenue, SW  
Washington, DC 20250-1021  
Tel: (202) 720-1344  
Fax: (202) 720-6556

General information about the Dairy Import License Program is available on the Internet at:  
<http://www.fas.usda.gov/itp/imports/usdairy.asp>

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